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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/664,581 | 09/17/2003 | Charles E. Biss | 283-381 | 3675 |

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MARJAMA & BILINSKI LLP
250 SOUTH CLINTON STREET
SUITE 300
SYRACUSE, NY 13202

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| EXAMINER |
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NGUYEN, KIMBERLY D

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| ART UNIT | PAPER NUMBER |
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2876

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 03/07/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/664,581

Applicant(s)

BISS ET AL

Examiner

Kimberly D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 24-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9, 24-28 and 36-51 is/are allowed.
- 6) ☒ Claim(s) 29-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Acknowledgment is made of Amendment filed December 5, 2006.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 29-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Zheng et al. (US 5,567,934; hereinafter "Zheng").

Re claims 29 and 35: Zheng teaches an image quality verifier system useful for verifying the quality of an encoded indicium (14) comprising

an imager (40) for obtaining an image of the encoded indicium;

at least one source of illumination (80) for illuminating the encoded indicium, wherein the system is configured to detect light from the at least one source of illumination for the purpose of confirming an illumination characteristic of the at least one source of illumination (col. 3, line 20 through col. 4, line 65; col. 6, lines 10-66).

Re claims 30-32: Zheng teaches wherein the hollow chamber further comprises an optical sensor (CCD) configured to receive illumination from the at least one source of illumination for the purpose of confirming an illumination characteristic provided by the at least one source of illumination (col. 4, lines 55-65; col. 6, lines 10-22).

Re claim 33: Zheng teaches wherein the system includes an illumination detector (85; col. 6, lines 33+) separate from the imager for detecting illumination from the at

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least one source of illumination for the purpose of confirming an illumination characteristic of the at least one source of illumination.

Re claim 34: Zheng teaches the light illumination/intensity is controlled substantially entirely by the controller 110 and/or trigger circuit 85 to reduce specular reflection (col. 6, lines 24-66).

Allowable Subject Matter

3. Claims 1-9, 24-28 and 36-51 are allowed.

The following is an examiner's statement of reasons for allowance:

Applicants' remarks on page 15+ filed December 5, 2006 have overcome the prior art rejection. The prior art fails to teach or fairly suggest a self-aligning structure for use in measuring the quality of an encoded indicium having
a hollow chamber comprising:

a first surface defining a first aperture, the first aperture representing a viewing area of an imager used to obtain an image of the encoded indicium;

a second surface defining a second aperture, the second aperture configured to support the imager in a position to obtain the image of the encoded indicium;

at least one source of illumination situated within the hollow chamber, the at least one source of illumination configured to illuminate the encoded indicium;
and

an illumination control operatively coupled to control the at least one source of illumination;

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the hollow chamber configured to be positioned adjacent the encoded indicium such that, when the encoded indicium is positioned within the viewing area, when an imager is supported in the second aperture, and when the at least one illumination source is properly controlled, the structure is self-aligned and the imager can obtain at least one image of the encoded indicium from which image quality of the encoded indicium can be measured, wherein the hollow chamber is constructed in a plurality of mating sections, a first section comprising the first surface defining the first aperture representing the viewing area of the imager of the encoded indicium, and a second section comprising the second surface defining the second aperture configured to support the imager in the position to obtain the image of the encoded indicium.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments, see pages 15+, filed 5 December 2006, with respect to claims 1-9, 24-28 and 36-51 have been fully considered and are persuasive. The rejection of above claims has been withdrawn. However, claims 29-35 are broad and anticipated by Zheng et al. as set forth above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 571-272-2402. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KDN

Kimberly D Nguyen
Primary Examiner
Art Unit 2876

